

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JERRY EUGENE SMITH,

Petitioner,

No. C 14-4438 PJH (PR)

vs.

**ORDER DISMISSING
AMENDED PETITION WITH
LEAVE TO AMEND**

KEVIN CHAPELL,

Respondent.

Petitioner, a state prisoner, filed a pro se petition for a writ of habeas corpus regarding a prison disciplinary finding. The original petition was dismissed with leave to amend and petitioner has filed an amended petition.

The original petition was dismissed because the exact nature of the action was difficult to determine. Petitioner was ordered to provide more information, a clearer statement of his claims, if he was denied time credits, and how the denial violated his constitutional rights. Petitioner has failed to provide this information in the amended petition. The brief amended petition states that his due process rights were denied when a prison official refused to change his custody status and restore credits. Petitioner has again failed to describe what led to the loss of credits, the circumstances of the disciplinary hearing, and how his constitutional rights were violated. Simply stating that credits were not restored is insufficient. Petitioner will be provided one final opportunity to amend.

CONCLUSION

1. The amended petition is **DISMISSED** with leave to amend in accordance with the standards set forth above. The amended petition must be filed no later than **January 22, 2015**, and carry the words SECOND AMENDED PETITION on the first page. Failure to amend within the designated time will result in the dismissal of these claims.

2. Petitioner must keep the court informed of any change of address and must comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). See *Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

IT IS SO ORDERED.

Dated: December 22, 2014.



PHYLLIS J. HAMILTON
United States District Judge

G:\PRO-SE\PJH\HC.14\Smith4438.dwlta2.wpd